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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,050	11/02/2001	Daniel J. Piotrowski	US010514	4937
24737 7590 05/15/2007 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			EXAMINER DIETRICH, ETHAN M	
			ART UNIT 3692	PAPER NUMBER
			MAIL DATE 05/15/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/003,050

Applicant(s)

PIOTROWSKI, DANIEL J.

Examiner

Ethan M. Dietrich

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-13, and 15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-13 and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Status of the Claims***

This action is in response to the response filed on February 6, 2007. Claims 1, 3-13, and 15 are pending and are examined. Applicant canceled claims 2 and 14 without prejudice.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3, 4, 7-13 and 15 are rejected under 35 U.S.C. 102(e) as being unpatentable over Mulla et al., US Patent 6311896 (originally cited as Application 09467905).

As per **Claim 1**, Mulla discloses an apparatus comprising: a label reader capable of reading information from a label, wherein the label is associated with a first product; a communication unit capable of communicating information to one or more service nodes; and a controller, coupled the label reader, the communication unit, arranged to receive information from the label reader, send a request to one or more of the service nodes through the communication unit, receive at least one competitive bid from an on-line retailer in response to the request from the service node, wherein the competitive

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bid relates to an on-line retailer's product similar to the first product and wherein the request and the competitive bid are formatted as documents capable of being exchanged in a distributed, decentralized environment (Mulla fig. 10 items 211, 212, 236, 214, col. 3 lines 34-67, col. 4 lines 1-67, col. 5 lines 1-11, col. 9 lines 2-46, col. 10 lines 24-67, col. 11 lines 1-45, col. 12 lines 1-27, col. 16 lines 48-67, col. 17 lines 1-33, col. 18 lines 1-12).

Mulla does not specifically disclose an apparatus wherein responsive to the received competitive bid, the controller is further arranged to allow a user to adjust the received competitive bid and send a counter offer to one or more of the service nodes. However, as noted in the Non-Final Rejection dated November 6, 2006, the making of a counter-offer is inherent to the bidding process and one skilled in the art would therefore expect that a bidding apparatus would include the capability of making a counter-offer.

As per **Claim 3**, Mulla discloses an apparatus as in claim 1, wherein, responsive to the received competitive bid, the controller is further arranged to allow profile information to be accessed by a service node to accept a selected competitive bid and engage in an on-line transaction (Mulla fig. 10 items 211, 212, 236, 214, col. 3 lines 34-67, col. 4 lines 1-67, col. 5 lines 1-11, col. 9 lines 2-46, col. 10 lines 24-67, col. 11 lines 1-45, col. 12 lines 1-27, col. 16 lines 48-67, col. 17 lines 1-33, col. 18 lines 1-12).

As per **Claim 4**, Mulla discloses an apparatus as in claim 1, wherein the apparatus and the service node communicate in a client/server network (Mulla fig. 10 items 211, 212, 236, 214, col. 3 lines 34-67, col. 4 lines 1-67, col. 5 lines 1-11, col. 9

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lines 2-46, col. 10 lines 24-67, col. 11 lines 1-45, col. 12 lines 1-27, col. 16 lines 48-67, col. 17 lines 1-33, col. 18 lines 1-12).

As per **Claim 7**, Mulla discloses an apparatus as in claim 1, further comprising a context sensor coupled to the controller (Mulla fig. 10 items 211, 212, 236, 214, col. 3 lines 34-67, col. 4 lines 1-67, col. 5 lines 1-11, col. 9 lines 2-46, col. 10 lines 24-67, col. 11 lines 1-45, col. 12 lines 1-27, col. 16 lines 48-67, col. 17 lines 1-33, col. 18 lines 1-12).

As per **Claim 8**, Mulla discloses an apparatus as in claim 1, wherein the one or more service nodes are responsive to a profile associated with a user contained within the request from the apparatus (Mulla fig. 10 items 211, 212, 236, 214, col. 3 lines 34-67, col. 4 lines 1-67, col. 5 lines 1-11, col. 9 lines 2-46, col. 10 lines 24-67, col. 11 lines 1-45, col. 12 lines 1-27, col. 16 lines 48-67, col. 17 lines 1-33, col. 18 lines 1-12).

As per **Claim 9**, Mulla discloses an apparatus as in claim 1, wherein the label reader comprises an RFID reader or a barcode reader (Mulla fig. 10 items 211, 212, 236, 214, col. 3 lines 34-67, col. 4 lines 1-67, col. 5 lines 1-11, col. 9 lines 2-46, col. 10 lines 24-67, col. 11 lines 1-45, col. 12 lines 1-27, col. 16 lines 48-67, col. 17 lines 1-33, col. 18 lines 1-12).

As per **Claim 10**, Mulla discloses as apparatus comprising: a memory; and a processor coupled to the memory and operative to read an item's tag information, communicate the tag information to a service node, receive a competitive bid from the service node, and responsive to the received response, to allow profile information to be accessed by a service node to engage into a commercial transaction, and where the

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request and the response are formatted as documents capable of being exchanged in a distributed, decentralized environment (Mulla fig. 10 items 211, 212, 236, 214, col. 3 lines 34-67, col. 4 lines 1-67, col. 5 lines 1-11, col. 9 lines 2-46, col. 10 lines 24-67, col. 11 lines 1-45, col. 12 lines 1-27, col. 16 lines 48-67, col. 17 lines 1-33, col. 18 lines 1-12).

Mulla does not specifically disclose an apparatus wherein responsive to the received competitive bid, the controller is further arranged to allow a user to adjust the received competitive bid and send a counter offer to one or more of the service nodes. However, as noted in the Non-Final Rejection dated November 6, 2006, the making of a counter-offer is inherent to the bidding process and one skilled in the art would therefore expect that a bidding apparatus would include the capability of making a counter-offer.

As per **Claim 11**, Mulla discloses an apparatus as in claim 12, wherein the tag comprises an RFID or barcode tag (Mulla fig. 10 items 211, 212, 236, 214, col. 3 lines 34-67, col. 4 lines 1-67, col. 5 lines 1-11, col. 9 lines 2-46, col. 10 lines 24-67, col. 11 lines 1-45, col. 12 lines 1-27, col. 16 lines 48-67, col. 17 lines 1-33, col. 18 lines 1-12).

As per **Claim 12**, Mulla discloses a method comprising the steps of: reading label information from a first product, the product located at a retailer location, using a remote terminal; communicating the information to one or more service nodes using the remote terminal; searching, using the label information from the first product, one or more other retailers' information for similar products; forming a competitive bid proposal for the similar products by at least one other retailers; and transmitting the competitive bid proposal to the wireless remote terminal (Mulla fig. 10 items 211, 212, 236, 214, col. 3

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lines 34-67, col. 4 lines 1-67, col. 5 lines 1-11, col. 9 lines 2-46, col. 10 lines 24-67, col. 11 lines 1-45, col. 12 lines 1-27, col. 16 lines 48-67, col. 17 lines 1-33, col. 18 lines 1-12).

Mulla does not specifically disclose allowing a user to adjust the received competitive bid and send a counter offer to one or more of the service nodes. However, as noted in the Non-Final Rejection dated November 6, 2006, the making of a counter-offer is inherent to the bidding process and one skilled in the art would therefore expect that a bidding apparatus would include the capability of making a counter-offer.

As per **Claim 13**, Mulla discloses a method as in claim 12, further including accepting the competitive bid proposal (Mulla fig. 10 items 211, 212, 236, 214, col. 3 lines 34-67, col. 4 lines 1-67, col. 5 lines 1-11, col. 9 lines 2-46, col. 10 lines 24-67, col. 11 lines 1-45, col. 12 lines 1-27, col. 16 lines 48-67, col. 17 lines 1-33, col. 18 lines 1-12).

As per **Claim 15**, Mulla discloses a method as in claim 12, wherein the one or more service nodes are responsive to a profile associated with a user contained within the information from the remote terminal (Mulla fig. 10 items 211, 212, 236, 214, col. 3 lines 34-67, col. 4 lines 1-67, col. 5 lines 1-11, col. 9 lines 2-46, col. 10 lines 24-67, col. 11 lines 1-45, col. 12 lines 1-27, col. 16 lines 48-67, col. 17 lines 1-33, col. 18 lines 1-12).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mulla and Tracy, US Patent 5,979,757.

As per **Claim 5**, Mulla does not specifically disclose an apparatus according to claim 4 wherein the documents comprise XML documents. However, Tracy does make this teaching (Tracy col. 10 lines 33-38). One skilled in the art would have been motivated to combine this teaching of Tracy with those of Mulla discussed in claim 4 because doing so, as suggested by Tracy allows a device to communicate with a broad range of networks and devices and allows for ease of retrieving and converting data files from external sources, thus enhancing the effectiveness of the device (Tracy col. 10 lines 33-38).



As per **Claim 6**, Mulla does not specifically disclose an apparatus according to claim 5, wherein the XML documents are expressed as SOAP messages. However, Tracy does make this teaching (Tracy col. 10 lines 33-38). One skilled in the art would have been motivated to combine this teaching of Tracy with those of Mulla discussed in claim 4 because doing so, as suggested by Tracy allows a device to communicate with a broad range of networks and devices and allows for ease of retrieving and converting data files from external sources, thus enhancing the effectiveness of the device (Tracy col. 10 lines 33-38).

### ***Response to Arguments***

Applicant's arguments filed February 6, 2007 have been fully considered but they are not persuasive. As discussed above in regard to claims 1, 10 and 12, the making of a counter-offer is inherent to the bidding process and one skilled in the art would therefore expect that a bidding apparatus would include the capability of making a counter-offer. As evidenced by modern negotiations over the price of a car or home to ancient haggling over the price of livestock, the making of a counter-offer is and has been an exceptionally well-known and expected aspect of a negotiation process. That the claimed invention also allows a party to a bidding process to make a counter-offer therefore does not distinguish it from the prior art.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ethan Dietrich, whose telephone number is 571-272-1874. The examiner can normally be reached M-F from 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot, can be reached at 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ED



RICHARD E. CHILCOT, JR.  
SUPERVISORY PATENT EXAMINER